

Estate of Roger Owensby vs. City of Cinti.
October 17, 2003

PATRICK E. CATON

UNITED STATES DISTRICT COURT

1

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ESTATE OF ROGER D. :
OWENSBY JR., et al., :
 :
Plaintiffs, :
vs. : Case No. 01-CV-769
 : (Judge S. A. Spiegel)
CITY OF CINCINNATI, :
et al., :
 :
Defendants. :

Videotaped deposition of PATRICK EDMUND
CATON, a defendant herein, called by the plaintiffs
for cross-examination, pursuant to the Federal Rules
of Civil Procedure, taken before me, Wendy Davies
Welsh, a Registered Diplomate Reporter and Notary
Public in and for the State of Ohio, at the offices
of Helmer, Martins & Morgan Co. LPA, 1900 Fourth &
Walnut Centre, 105 East Fourth Street, Cincinnati,
Ohio, on Friday, October 17, 2003, at a.m.

(800) 578-1542 * MERIT * (513) 381-8228

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1 APPEARANCES:	1 STIPULATIONS
2 On behalf of the Plaintiffs:	2 It is stipulated by and among counsel for the
3 Paul B. Martins, Esq.	3 respective parties that the deposition of PATRICK
4 Don Stiens, Esq.	4 EDMUND CATON, a defendant herein, called by the
5 Frederick M. Morgan, Jr. Esq.	5 plaintiffs for cross-examination, pursuant to the
6 Helmer, Martins & Morgan Co. LPA	6 Federal Rules of Civil Procedure, may be taken at
7 Suite 1900, Fourth & Walnut Centre	7 this time by the notary; that said deposition may be
8 103 East Fourth Street	8 reduced to writing in stenotype by the notary, whose
9 Cincinnati, Ohio 45202	9 notes may then be transcribed out of the presence of
10 Phone: (513) 421-2400	10 the witness; and that proof of the official
11 John J. Helbling, Esq.	11 character and qualifications of the notary is
12 The Helbling Law Firm, L.L.C.	12 expressly waived.
13 3672 Springdale Road	13
14 Cincinnati, Ohio 45251	14
15 Phone: (513) 923-9740	15
16 On behalf of the Defendants City of Golf Manor,	16
17 Stephen Tilley, Roby Heiland and Chris	17
18 Campbell:	18
19 Lynne Marie Longtin, Esq.	19
20 Rendigs, Fry, Kieley & Dennis	20
21 900 Fourth & Vine Tower	21
22 One West Fourth Street	22
23 Cincinnati, Ohio 45202-3688	23
24 Phone: (513) 381-9200	24
1 APPEARANCES (Continued):	1 INDEX
2 On behalf of the Defendants Robert B. Jorg,	2 Examination by: Page
3 Patrick Caton, Jason Hodge, Victor Spellman and	3 Mr. Martins 6
4 Darren Sellers:	4 Ms. Longtin 232
5 Donald E. Hedin, Esq.	5 Mr. Martins. 239
6 Hedin, Lefton, Lazarus & Marks, LLC	6
7 915 Cincinnati Club Building	7
8 30 West Garfield Place	8 EXHIBITS
9 Cincinnati, Ohio 45202	9 Deposition Exhibit 28 22
10 Phone: (513) 721-7300	10 Deposition Exhibit 29 30
11 Also present:	11 Deposition Exhibit 30 43
12 Richard W. Grubb, Videographer	12 Deposition Exhibit 31 63
13 Lisa Danstrom, Law Clerk	13 Deposition Exhibit 32 113
14 Helmer, Martins & Morgan Co., L.P.A.	14 Deposition Exhibit 33 186
15 Wendy M. Weller, Paralegal	15 Deposition Exhibit 34 191
16 Buckley, King & Bluso	16 Deposition Exhibit 35 194
17 Mr. Roger Owensby	17 Deposition Exhibit 36 207
18 Mrs. Brenda Owensby	18
19 Mr. Shawn Owensby	19
20 Victor M. Spellman	20
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<p style="text-align: right;">Page 14</p> <p>1 A. That is correct.</p> <p>2 Q. And was there a pulse?</p> <p>3 A. I couldn't find one.</p> <p>4 Q. Did Officer Hasse try to take his pulse at</p> <p>5 his wrist?</p> <p>6 A. I -- I don't think he could. No, I would</p> <p>7 say no, because his hands were underneath him at --</p> <p>8 at that point. Officer Hasse was also -- had to use</p> <p>9 both hands to use the -- the rescue breathing mask</p> <p>10 that was supplied by a Golf Manor officer.</p> <p>11 Q. Did Officer Hasse say anything to you</p> <p>12 concerning the condition of Mr. Owensby at that</p> <p>13 time?</p> <p>14 A. Well, while we were giving him CPR, like I</p> <p>15 said, his hands had to be on the mask in order to</p> <p>16 employ it. And I basically did all the manipulation</p> <p>17 of Mr. Owensby to get him in the proper position,</p> <p>18 and the chest compressions. During the -- and --</p> <p>19 and periodically taking his pulse through the</p> <p>20 incident.</p> <p>21 At one point Officer Hasse, who is EMT</p> <p>22 trained, said -- asked me if air was going into his</p> <p>23 lungs or going into his stomach.</p> <p>24 And I said, "How do you tell?"</p>	<p style="text-align: right;">Page 16</p> <p>1 When Fire arrived, he immediately -- I -- I can't</p> <p>2 remember the technical term he used. It was -- he</p> <p>3 referenced, "We need the suction device off the</p> <p>4 truck to clear his airway."</p> <p>5 Q. Had you received training as a Cincinnati</p> <p>6 police officer in conducting CPR in circumstances</p> <p>7 such as this?</p> <p>8 A. Once.</p> <p>9 Q. When?</p> <p>10 A. Received about four hours of training at</p> <p>11 the academy in 1997.</p> <p>12 Q. No follow-up training?</p> <p>13 A. No.</p> <p>14 Q. Had anyone ever instructed you that in</p> <p>15 order to do CPR, the handcuffs had to be removed</p> <p>16 from the suspect so that his arms were not behind</p> <p>17 his back?</p> <p>18 A. No. What I was instructed is that his</p> <p>19 back and shoulders must be flat on the ground in</p> <p>20 order to do chest -- chest compressions correctly.</p> <p>21 And I believed at that time they were.</p> <p>22 Q. What has to be flat on the ground?</p> <p>23 A. His back -- his back and shoulders.</p> <p>24 Q. Now, when the fire rescue unit arrived --</p>
<p style="text-align: right;">Page 15</p> <p>1 And he says, "Is his chest rising and</p> <p>2 falling or is his stomach rising and falling?" And</p> <p>3 when he gave two rescue breaths, I -- I observed his</p> <p>4 stomach rising and falling.</p> <p>5 He then said, "That means something's</p> <p>6 blocking his throat," at which point I repositioned</p> <p>7 Mr. Owensby's head with a chin tilt and attempted to</p> <p>8 physically clear his airway. At that point I</p> <p>9 couldn't find anything, and we began the rescue</p> <p>10 breathing and CPR again.</p> <p>11 Q. When you say "couldn't find anything,"</p> <p>12 there was no obstruction as far as his --</p> <p>13 A. I can only reach as deep as the back of</p> <p>14 his mouth.</p> <p>15 Q. Right. And you -- you found no</p> <p>16 obstruction?</p> <p>17 A. I -- I couldn't find an obstruction at --</p> <p>18 from -- at that point.</p> <p>19 Q. Had you --</p> <p>20 A. Officer --</p> <p>21 Q. I'm sorry.</p> <p>22 A. I'm sorry. I was going to continue.</p> <p>23 Officer Hasse believed that there was something</p> <p>24 obstructing his airway at that point and called.</p>	<p style="text-align: right;">Page 17</p> <p>1 well, let me ask you, where were they from?</p> <p>2 A. I don't know what fire unit responded.</p> <p>3 Q. Okay. In any event, when they arrived,</p> <p>4 one of the first things that you and Officer Hasse</p> <p>5 were told to do was to remove the handcuffs from Mr.</p> <p>6 Owensby, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. Let me ask you, when did you first realize</p> <p>9 that Roger Owensby was injured?</p> <p>10 A. What -- what kind of injury are we talking</p> <p>11 about?</p> <p>12 Q. Any injury that requires some medical</p> <p>13 attention.</p> <p>14 A. Medical assistance. Okay. When Sergeant</p> <p>15 Watts and I approached the cruiser afterwards to get</p> <p>16 information from Mr. Owensby, Sergeant Watts opened</p> <p>17 the cruiser door and made a statement to the effect</p> <p>18 of, Pat, I don't think he's breathing.</p> <p>19 And that's when I looked in, and he was in</p> <p>20 a real awkward position at that point. And I looked</p> <p>21 up, saw Officer Hasse standing on the other side of</p> <p>22 the Golf Manor cruiser at that point. And realizing</p> <p>23 that he's EMT trained, I said, "Have you got any</p> <p>24 rubber gloves?"</p>

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17:00:39 1 MR. HARDIN: Caton.

17:00:39 2 VIDEOGRAPHER: Sorry. Mr. Caton, you have
17:00:39 3 a right to review this videotape deposition
17:00:39 4 prior to its being shown to a court or jury.
17:00:39 5 Will you waive that right?

17:00:39 6 THE WITNESS: No.

17:00:40 7 VIDEOGRAPHER: We're off the record. The
17:00:42 8 time showing is 5:04 p.m.

17:00:42 9 MR. MARTINS: I take it you also want
17:00:49 10 signature on the deposition?

17:00:51 11 MR. HARDIN: Yes. Yes.

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(Deposition concluded.)

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PATRICK EDMUND CATON